

EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

-----:
UNITED STATES, et al., :
:
Plaintiff, :
:
vs. : Case No.:
: 1:23-CV-00108-LMB-JFA
GOOGLE, LLC, :
:
Defendant. :
-----:

VIDEOTAPED DEPOSITION OF ALLEN OWENS, JR.


DATE: September 28, 2023
TIME: 9:36 a.m.
LOCATION: Paul, Weiss, Rifkind,
Wharton & Garrison LLP
2001 K Street, Northwest
Washington, D.C. 20006-1047

REPORTED BY: Shari R. Broussard, RPR, CSR
Reporter, Notary

Job No. CS6118347

<p style="text-align: right;">Page 2</p> <p>1 A P P E A R A N C E S</p> <p>2 On behalf of Plaintiff:</p> <p>3 CHASE PRITCHETT, ESQUIRE</p> <p>4 KATHERINE CLEMONS, ESQUIRE</p> <p>5 ALVIN CHU, ESQUIRE</p> <p>6 U.S. Department of Justice</p> <p>7 450 5th Street, Northwest</p> <p>8 Washington, D.C. 20530</p> <p>9 On behalf of Defendant:</p> <p>10 MARTHA L. GOODMAN, ESQUIRE</p> <p>11 LEAH HIBBLER, ESQUIRE</p> <p>12 Paul, Weiss, Rifkind,</p> <p>13 Wharton & Garrison, LLP</p> <p>14 2001 K Street, Northwest</p> <p>15 Washington, D.C. 20006-1047</p> <p>16 (202) 223- 7341</p> <p>17 mgoodman@paulweiss.com</p> <p>18 ALSO PRESENT:</p> <p>19 Orson Braithwaite, Video Technician</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 4</p> <p>1 DEFENDANT'S DEPOSITION EXHIBITS: * PAGE</p> <p>2 164 Plaintiff's Responses to Defendant</p> <p>3 Google LLC's Fifth Set of</p> <p>4 Interrogatories to the United States 101</p> <p>5 PREVIOUSLY MARKED/REFERRED TO:</p> <p>6 55 Bates NAVY-ADS-241136 to 143</p> <p>7 60 Bates NAVY-ADS-28530 to 531</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 (* Exhibits attached to transcript.)</p>
<p style="text-align: right;">Page 3</p> <p>1 C O N T E N T S</p> <p>2 EXAMINATION BY: PAGE</p> <p>3 Counsel for Defendant 6</p> <p>4 Counsel for Plaintiff 105</p> <p>5</p> <p>6 DEFENDANT'S DEPOSITION EXHIBITS: * PAGE</p> <p>7 154 Navy Communications with Attorneys 17</p> <p>8 155 e-mails Re: Award of M&A contract, Bates</p> <p>9 NAVY-ADS-219026 to 173 27</p> <p>10 156 Amendment of Solicitation/Modification of</p> <p>11 Contract, No. 2, Bates NAVY-ADS-12880</p> <p>12 to 925 32</p> <p>13 157 e-mails Re: Navy Advertising Contract</p> <p>14 N00189-15-D-Z024, Bates NAVY-ADS-315296</p> <p>15 to 374 40</p> <p>16 158 e-mail from Uhlman to Owens, 7/15/22,</p> <p>17 Bates NAVY-ADS-72243 61</p> <p>18 159 Digital Media Bill, Oct-22, Bates</p> <p>19 NAVY-ADS-374151 to 171 67</p> <p>20 160 Digital Media Bill, Nov-22, Bates</p> <p>21 NAVY-ADS-373978 to 4145 77</p> <p>22 161 Digital Media FY19 Q3 Refund, Bates</p> <p> NAVY-ADS-5844 82</p> <p> 162 e-mails Re: Navy Refund Checks, Bates</p> <p> NAVY-ADS-5834 to 837 83</p> <p> 163 Plaintiff United States of America's</p> <p> Responses to Defendant Google LLC's</p> <p> Second Set of Interrogatories to the</p> <p> United States 99</p>	<p style="text-align: right;">Page 5</p> <p>1 P R O C E E D I N G S</p> <p>2</p> <p>3 VIDEO TECHNICIAN: Good morning. We are</p> <p>4 going on the record at 9:36 a.m. on</p> <p>5 September 28th, 2023.</p> <p>6 Please note that the microphones are</p> <p>7 sensitive and may pick up whispering, private</p> <p>8 conversations. Please mute your phones at this</p> <p>9 time.</p> <p>10 Audio and video recording will continue</p> <p>11 to take place unless all parties agree to go off</p> <p>12 the record.</p> <p>13 This is Media Unit 1 of the</p> <p>14 video-recorded deposition of Mr. Allen Owens in</p> <p>15 the matter of United States, et al., versus</p> <p>16 Google, LLC, filed in the United States District</p> <p>17 Court, Eastern District of Virginia, Alexandria</p> <p>18 Division, Case Number 1:23-cv-00108-LMB-JFA.</p> <p>19 My name is Orson Braithwaite</p> <p>20 representing Veritext Legal Solutions and I'm the</p> <p>21 videographer. The court reporter is Shari</p> <p>22 Broussard from the firm Veritext Legal Solutions.</p>

<p style="text-align: right;">Page 18</p> <p>1 A Yes, that's right.</p> <p>2 Q Okay. And so am I understanding</p> <p>3 correctly that the first outreach to anybody at</p> <p>4 the Navy recruiting command took place after the</p> <p>5 filing of the complaint on January 24th, 2023?</p> <p>6 MR. PRITCHETT: Objection. Form.</p> <p>7 THE WITNESS: Can you repeat that</p> <p>8 question one more time?</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q Am I understanding correctly that the</p> <p>11 first outreach to anybody at the Navy Recruiting</p> <p>12 Command took place after the filing of the</p> <p>13 complaint on January 24th, 2023?</p> <p>14 A Yes.</p> <p>15 Q Okay. Did anybody at the Navy</p> <p>16 Recruiting Command have a choice as to whether to</p> <p>17 participate in this lawsuit as a party or as an</p> <p>18 entity on whose behalf the United States is</p> <p>19 seeking damages?</p> <p>20 MR. PRITCHETT: Objection. Form.</p> <p>21 THE WITNESS: So I'm not privy to the</p> <p>22 conversations that happened between DoD and DON,</p>	<p style="text-align: right;">Page 20</p> <p>1 MR. PRITCHETT: Objection. Form.</p> <p>2 THE WITNESS: Yeah. I don't -- sitting</p> <p>3 here today I don't have that information of -- of</p> <p>4 who the person was that -- that approved that.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q And you did not undertake to figure out</p> <p>7 that information in order to prepare for this</p> <p>8 deposition; is that accurate?</p> <p>9 MR. PRITCHETT: Objection. Form.</p> <p>10 THE WITNESS: In order to prepare for</p> <p>11 the -- the deposition, I found out the timelines</p> <p>12 of when the departments were contacted but did not</p> <p>13 ascertain the names of the people at the</p> <p>14 departments who were the ones to approve this.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q Okay. Do you know -- does the Navy</p> <p>17 know -- did you -- strike that.</p> <p>18 Did you do anything to prepare to figure</p> <p>19 out whether the Navy even had a choice as to</p> <p>20 whether to participate in this lawsuit as an</p> <p>21 entity on whose behalf the United States is</p> <p>22 seeking damages?</p>
<p style="text-align: right;">Page 19</p> <p>1 but once DON was contacted, they contacted the OGC</p> <p>2 at NETC, which is the Navy Education Training</p> <p>3 Command -- it's the parent command over Navy</p> <p>4 recruiting -- and that OGC is the one who</p> <p>5 contacted me and instructed me to meet with DoJ.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q Okay. So who at -- who, if -- if</p> <p>8 anyone, within the Navy made the decision for the</p> <p>9 Navy Recruiting Command to participate as an</p> <p>10 entity on whose behalf the United States is</p> <p>11 seeking damages in this lawsuit?</p> <p>12 MR. PRITCHETT: Objection. Form.</p> <p>13 THE WITNESS: I don't have that</p> <p>14 information, but if needed could contact the OGC</p> <p>15 at NETC to pull that string and find out who in</p> <p>16 the DON chain was the one.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q Okay. Do you know whether -- does the</p> <p>19 Navy know whether the Navy had a choice as to</p> <p>20 whether to participate in this lawsuit as an</p> <p>21 agency on whose behalf the United States is</p> <p>22 seeking money damages?</p>	<p style="text-align: right;">Page 21</p> <p>1 MR. PRITCHETT: Objection. Form, asked</p> <p>2 and answered.</p> <p>3 THE WITNESS: Yeah. As -- as stated</p> <p>4 earlier, ma'am, the -- the Department of Navy was</p> <p>5 contacted and at that point in time, once they</p> <p>6 contacted the Naval Education Training Command</p> <p>7 OGC, that OGC contacted Navy Recruiting Command</p> <p>8 and instructed them to participate. So above the</p> <p>9 NETC OGC, I don't have that information now, but</p> <p>10 could contact the NETC OGC if needed to -- to find</p> <p>11 that out.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q Okay. Do you know when the Navy -- when</p> <p>14 did the Navy make a decision to participate in</p> <p>15 this lawsuit --</p> <p>16 MR. PRITCHETT: Objection.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q -- an affirmative decision to</p> <p>19 participate in this lawsuit as an entity on whose</p> <p>20 behalf the United States is seeking money damages?</p> <p>21 MR. PRITCHETT: Objection. Form,</p> <p>22 foundation.</p>

<p style="text-align: right;">Page 106</p> <p>1 through Google's Ad Exchange?</p> <p>2 A No, we do not.</p> <p>3 MR. PRITCHETT: Okay. No further</p> <p>4 questions.</p> <p>5 MS. GOODMAN: Okay.</p> <p>6 VIDEO TECHNICIAN: The time is</p> <p>7 12:08 p.m. We're off the record.</p> <p>8 (Whereupon, at 12:08 p.m., the</p> <p>9 deposition of ALLEN OWENS, JR.</p> <p>10 was concluded.)</p> <p>11 * * * * *</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 108</p> <p>1 A C K N O W L E D G E M E N T</p> <p>2 O F D E P O N E N T</p> <p>3</p> <p>4 I, ALLEN OWENS, JR., do hereby acknowledge</p> <p>5 I have read and examined the foregoing pages of</p> <p>6 testimony, and the same is a true, correct and</p> <p>7 complete transcription of the testimony given by</p> <p>8 me, and any changes or corrections, if any, appear</p> <p>9 in the attached errata sheet signed by me.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 _____</p> <p>21 Date ALLEN OWENS, JR.</p> <p>22 Job No. CS6118347</p>
<p style="text-align: right;">Page 107</p> <p>1 CERTIFICATE OF NOTARY PUBLIC</p> <p>2 I, SHARI R. BROUSSARD, the officer before</p> <p>3 whom the foregoing deposition was taken, do hereby</p> <p>4 certify that the witness whose testimony appears</p> <p>5 in the foregoing deposition was duly sworn by me;</p> <p>6 that the testimony of said witness was taken by me</p> <p>7 in stenotype and thereafter reduced to typewriting</p> <p>8 under my direction; that said deposition is a true</p> <p>9 record of the testimony given by said witness;</p> <p>10 that I am neither counsel for, related to, nor</p> <p>11 employed by any of the parties to the action in</p> <p>12 which this deposition was taken; and, further,</p> <p>13 that I am not a relative or employee of any</p> <p>14 counsel or attorney employed by the parties</p> <p>15 hereto, nor financially or otherwise interested in</p> <p>16 the outcome of this action.</p> <p>17</p> <p>18 </p> <p>19 SHARI R. BROUSSARD</p> <p>20 Notary Public in and for the</p> <p>21 District of Columbia</p> <p>22 My commission expires:</p> <p>August 14, 2025</p>	<p style="text-align: right;">Page 109</p> <p>1 Katherine Clemons Esq.</p> <p>2 katherine.clemons@usdoj.gov</p> <p>3 October 2, 2023</p> <p>4 RE: United States, Et Al v. Google, LLC</p> <p>5 9/28/2023, Allen Owens, Jr., Navy 30(B)(6) (#6118347)</p> <p>6 The above-referenced transcript is available for</p> <p>7 review.</p> <p>8 Within the applicable timeframe, the witness should</p> <p>9 read the testimony to verify its accuracy. If there are</p> <p>10 any changes, the witness should note those with the</p> <p>11 reason, on the attached Errata Sheet.</p> <p>12 The witness should sign the Acknowledgment of</p> <p>13 Deponent and Errata and return to the deposing attorney.</p> <p>14 Copies should be sent to all counsel, and to Veritext at</p> <p>15 erratas-cs@veritext.com</p> <p>16</p> <p>17 Return completed errata within 30 days from</p> <p>18 receipt of testimony.</p> <p>19 If the witness fails to do so within the time</p> <p>20 allotted, the transcript may be used as if signed.</p> <p>21</p> <p>22 Yours,</p> <p>Veritext Legal Solutions</p>